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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 THE GALINA SUDAI 2009
11 IRREVOCABLE TRUST FOR THE
12 BENEFIT OF HER HANDICAPPED
SON, MICHAEL KUBRAK,

Plaintiff,

13 v.

14 ROBB EVANS, *et al.*,

15 Defendants.
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Case No. 2:09-cv-2181-LDG (RJJ)

ORDER

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18 Defendants Patti Michaely (Patti) and Robb Evans (Evans) move to be dismissed
19 (#48) from the complaint of plaintiff, The Galina Sudai 2009 Irrevocable Trust for the
20 Benefit of Her Handicapped Son, Michael Kubrak ("Trust"). The Trust has not timely
21 opposed. This failure constitutes consent to the granting of the motion. See, L.R. 7-2(d).

22 Dismissal is particularly appropriate in this instance as the present motion is Patti
23 and Evans' second motion to dismiss. They filed their first motion to dismiss in January,
24 2010. The Trust never filed an opposition to that motion. Rather, on the penultimate day
25 to oppose, the Trust moved for an additional 45 days to file an opposition. The Trust
26 asserted that it was retaining new counsel. Subsequently, and on the penultimate day of

1 additional time, the Trust filed its First Amended Complaint, rendering moot the first motion
2 to dismiss.

3 Patti and Evans then filed the instant motion to dismiss the Amended Complaint.
4 The Trust responded using the same strategy: on the penultimate day to file an opposition,
5 the Trust moved for an additional 45 days to file an opposition as it was retaining new
6 counsel.

7 In granting the Trust's second request for additional time, the court notified the Trust
8 that the court would *not* grant any further enlargement of time to oppose the motion to
9 dismiss. The court also expressly notified the Trust that the failure to *timely* file points and
10 authorities in opposition to the motion to dismiss would constitute a consent to the granting
11 of the motion to dismiss. Accordingly, as the Trust failed to timely oppose the motion to
12 dismiss,

13 THE COURT **ORDERS** that Patti Michaely and Robb Evans' Motion to Dismiss
14 (#48) is GRANTED; Plaintiffs' complaint is DISMISSED as to Patti Michaely and Robb
15 Evans.

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17 DATED this 9 day of June, 2010.

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20 Lloyd D. George
21 United States District Judge
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